

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 132 of 1988

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the Judgment ?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MOHANBHAI GIRDHARBHAI
VERSUS
MUNICIPAL CORPORATION OF THE CITY OF SURAT

Appearance:

MR RR MARSHALL for the Petitioners
MR PRASHANT G DESAI with MR MRUGAN PUROHIT for Respondent

CORAM : MR JUSTICE S.K. KESHOTE
Date of Decision : 27/04/2000

C.A.V. JUDGMENT

Heard the learned counsel for the parties.

2. Here is a case where the persons who are occupying the houses on the land in dispute have not come up before this court but the persons who have come up before this court are erstwhile owners of the land in dispute and as per their own case this land has been developed and the houses were constructed and those have been given to the economically weaker section and as per the case of the respondent to the persons of sufficient means. The respondent has also strongly contested that the whole of the land has been put under construction. If any illegal construction has been made and it is to be demolished by the respondent then the person whose construction has been demolished is the only person to come before this court. But the filing of this petition, by the petitioners, in the facts of this case, is difficult to appreciate.

3. Otherwise also the learned counsel for the respondent submits that the Corporation shall not demolish any of the construction without giving notice to the affected persons and after giving them an opportunity of hearing.

4. It is a case where these matters are to be decided first by the Corporation and only in case if ultimately any final order has been passed adverse to the affected persons then the affected persons may avail of the appropriate legal remedy available. If we go by the facts of this case, as stated earlier, the petitioners developed this land for the benefit of the weaker section and they are not really affected by this action of the Corporation. As per their case, the houses have been constructed and given to other persons. This petition, at this stage, is wholly misconceived and the same deserves to be dismissed. However, it is made clear that the respondent-Corporation before proposing to demolish any of the houses on the land in question, shall give notice and an opportunity of hearing to the occupier of that house and after considering his case on merits, shall pass an appropriate order and then only shall proceed for demolition. With these directions, this special civil application is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. No order as to costs.

zgs/-

